

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RICHARD W. PETERS,

Plaintiff,

vs.

IRA BRANNON,

Defendant.

3:15-cv-00493-RCJ-CSD

ORDER

Plaintiff seeks the testimony of three witnesses at trial: Mr. William Lyons (Offender ID #79249), Mr. Richard Johnston (Offender ID #91380), and Mr. Fernando Rodriguez (Offender ID #51052). He moves to have Nevada Department of Corrections to produce these witnesses for testimony via video conference.¹ (ECF Nos. 165, 166, 167.) Plaintiff also filed three proposed subpoenas compelling these witnesses' testimony. (ECF Nos. 168, 169, 170.) The Court notes that subpoenas compelling these persons to testify are ineffective as they are incarcerated; he rather needs writs for habeas corpus ad testificandum to compel the prison to allow them to appear. The Court thus liberally construes these motions as requesting writs for habeas corpus ad testificandum.

For such motions, "the trial judge should take into account the costs and inconvenience of transporting a prisoner from his place of incarceration to the courtroom, any potential danger or

¹ The form motion that Plaintiff used states that he seeks these witnesses' "personal appearance or, in the alternative, that [they] be made available to appear by telephone or video conference." In all three motions, Plaintiff underlined "video conference."

1 security risk which the presence of a particular inmate would pose to the court, the substantiality
2 of the matter at issue, the need for an early determination of the matter, the possibility of delaying
3 trial until the prisoner is released, the probability of success on the merits, the integrity of the
4 correctional system, and the possibility that the testimony could be presented by deposition.” Ha-
5 beas corpus ad testificandum, Federal Trial Handbook: Civil § 21:14 (2021-2022 Edition).

6 Applying these factors here, the Court finds that compelling Nevada Department of Cor-
7 rections to produce these witnesses via video conference from their current place of incarceration
8 is not unduly burdensome and should therefore be granted.

9 **CONCLUSION**

10 IT IS HEREBY ORDERED that Motion to have Inmate Witness Testify at Trial (ECF No.
11 165) is GRANTED.

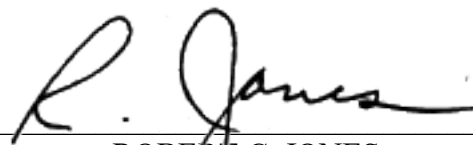
12 IT IS FURTHER ORDERED that Motion to have Inmate Witness Testify at Trial (ECF
13 No. 166) is GRANTED.

14 IT IS FURTHER ORDERED that Motion to have Inmate Witness Testify at Trial (ECF
15 No. 167) is GRANTED.

16 The Court hereby issues writs for habeas corpus ad testificandum to Nevada Department
17 of Corrections to have Mr. William Lyons (Offender ID #79249), Mr. Richard Johnston (Offender
18 ID #91380), and Mr. Fernando Rodriguez (Offender ID #51052) testify via video conference for
19 trial in this case.

20 IT IS SO ORDERED.

21 Dated April 14, 2022.

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24 ROBERT C. JONES
United States District Judge